IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

In re:	Chapter 11
Global Home Products LLC, et al.,1	Case No. 06-10340 (KG) (Jointly Administered)
Debtors.	•
Regal Ware, Inc.,	
Appellant, v.	
Global Home Products LLC, et al.,	Civil Action 06-588 (JJF)
Appellees.	

DEBTORS' OPPOSITION TO MOTION TO EXTEND TIME FOR APPELLANT TO FILE OPENING BRIEF

The above-captioned appellee debtors and debtors in possession in the above referenced chapter 11 cases (the "Debtors") hereby file their opposition to the Motion to Extend Time for Appellant to File Opening Brief (the "Motion") filed by appellant Regal Ware, Inc. (the "Appellant").

1. On October 18, 2006, this Court issued a memorandum order dated October 18, 2006 (the "Scheduling Order") which, inter alia, set a briefing schedule in the above-caption appeal (the "Appeal") and fixed November 2, 2006 as the deadline for the Appellant to file its opening brief. A copy of the Scheduling Order is attached hereto as Exhibit A. Paragraph 3 of the Scheduling Order provides, in relevant part:

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¹ The Debtors are the following entities: Global Home Products LLC; GHP Holding Company LLC; GHP Operating Company LLC; Anchor Hocking Acquisition Inc.; Anchor Hocking Inc.; AH Acquisition Puerto Rico, Inc.; Anchor Hocking Consumer Glass Corporation; Anchor Hocking CG Operating Company LLC; Anchor Hocking Operating Company LLC; Burnes Acquisition Inc.; Intercraft Company; Burnes Puerto Rico, Inc.; Picture LLC; Burnes Operating Company LLC; Mirro Acquisition Inc.; Mirro Puerto Rico, Inc.; Mirro Operating Company LLC.

3. The parties shall adhere to the following briefing schedule unless an otherwise agreed schedule is filed within fifteen (15) days of the date of this Order:

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- (a) Appellant's Opening Brief on Appeal shall be filed within fifteen (15) days of the date of this Order. . . .
- Scheduling Order, Paragraph 3 (emphasis added).
- 2. The Scheduling Order is clear: unless the parties agreed to an alternative briefing schedule in sufficient time to file an amended schedule with the Court, the briefing schedule in the Scheduling Order would control and the Appellant's opening brief would be due by November 2, 2006.
- 3. On October 24, 2006, Debtors' counsel sent an email to counsel for the Appellant, counsel for appellee Groupe SEB USA ("SEB"), as well as other interested parties, requesting the parties agree to brief the Debtors' anticipated motion to dismiss the Appeal prior to briefing the actual merits of the Appeal (the "October 24 Email"). As the Appellant has long been aware, the Debtors believe that the Appeal is statutorily moot because the sale of the property to SEB that is the subject of the Appeal closed over two months ago pursuant to an unstayed sale order.² As such, the Debtors believed it made economic and practical sense for the parties to first brief the issue of a case-dispositive motion, rather than simultaneously briefing the merits of the Appeal along with a motion to dismiss the Appeal. Thus, the October 24 Email was the Debtors' first attempt to agree to and file an amended briefing schedule with the Court in

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² Appellant's claim that the motion to dismiss was "unanticipated" (See Motion, paragraph 2) is not credible. Even prior to the October 24 Email, the Debtors have consistently maintained that the Appeal is moot. See e.g. Paragraph 2 of Appellee's Counterdesignation of Items to be Included in the Record of Appeal filed on September 18, 2006 [District Court Docket No. 9] ("the Appellees believe that the Appeal is statutory moot because the sale of the assets that were the subject to the Sale Order (the "Property") . . . closed. ").

sufficient time prior to the November 2, 2006 deadline fixed by the Scheduling Order for the Appellant to file its opening brief.

Case 1:06-cv-00588-JJF

- 4. The Appellant did not respond to the October 24 Email. On October 30, 2006, counsel for the Debtors again emailed Appellant's counsel and the other parties copied on the October 24 Email (the "October 30 Email") requesting a response to the proposal set forth in the prior email. The Debtors did not receive any timely response to the October 30 Email either. Because the Appellant did not timely respond to either the October 24 Email or the October 30 Email, the Debtors concluded that briefing would proceed in accordance with the deadlines set forth in the Scheduling Order because "an otherwise agreed schedule" was never agreed to, much less filed with the Court. The Debtors therefore awaited receipt of the Appellant's opening brief on November 2, 2006.
- 5. The Appellant failed to timely file its opening brief in accordance with the Scheduling Order. Instead, in the afternoon of November 2, 2006 the deadline for Appellant to file its opening brief Appellant's counsel emailed the Debtors, SEB and other interested parties in a belated attempt to modify the Scheduling Order. In addition, on November 2, 2006, the Appellant filed the Motion which does not contain a hearing date in order to obtain an extension of time to file its opening brief that was supposed to be filed on that same day
- 6. The circumstances under which the Appellant is now requesting an extension of time to file its opening brief are entirely self-created. The Appellant failed to timely respond to either the October 24 Email or the October 30 Email, which failure prevented the parties the necessary time to agree to and file an alternative briefing schedule with the Court.

Rather, the Appellant chose to deliberately ignore the Debtors' repeated requests to agree to a modified briefing schedule until the very deadline for the Appellant to file its brief.

The Appellant should not be rewarded for its conduct by obtaining additional time to file a brief that should have filed on November 2, 2006. The Debtors request that the Motion be denied and that the Court grant other relief as is just and proper under the circumstances.

Dated: November 3, 2006

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30mm

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EXHIBIT A

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE

IN RE: :

GLOBAL HOME PRODUCTS LLC, : Bankruptcy Case No. 06-10340-KG

Debtors.

REGAL WARE INC.,

Appellant,

v. : Civil Action No. 06-588-JJF

SEB S.A., et al.,

Appellees.

ORDER

WHEREAS, the Debtor/Appellee, Global Home Products LLC, filed a Motion For Leave Of Requirements Of District Court Standing Order Dated July 23, 2004 Requiring Debtors' Mandatory Participation In Mediation Proceedings Of Appeal (D.I. 11) which has been joined by Appellees, SEB S.A., Groupe SEB USA (D.I. 13), the Official Committee of Unsecured Creditors (D.I. 15), and Wachovia Bank (D.I. 16);

WHEREAS, the Appellant, Regal Ware, Inc., has filed a Statement In Support Of Mediation Of Its Appeal Pursuant To The Standing Mediation Order Of This Court (D.I. 14) expressing its desire to have the mediation go forward;

WHEREAS, in the circumstances of this case, the Court agrees to waive the mediation requirement;

NOW THEREFORE, IT IS HEREBY ORDERED that:

- 1. The Debtor Appellant's Motion For Leave Of
 Requirements Of District Court Standing Order Dated July 23, 2004
 Requiring Debtors' Mandatory Participation In Mediation
 Proceedings Of Appeal (D.I. 11) is **GRANTED**.
- 2. The mandatory mediation requirement for the above-captioned appeal is waived.
- 3. The parties shall adhere to the following briefing schedule unless an otherwise agreed upon schedule is filed within fifteen (15) days of the date of this Order:
- a. Appellant's Opening Brief on appeal shall be filed within fifteen (15) days of the date of this Order.
- b. The Answering Brief on appeal shall be filed within fifteen (15) days of receipt of the Opening Brief.
- c. The Reply Brief on appeal shall be filed within ten (10) days of receipt of the Answering Brief.

October 18, 2006

Joseph Jaman Judge UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

In re:

Chapter 11

GLOBAL HOME PRODUCTS LLC, et al., 1

Case No. 06-10340 (KG) (Jointly Administered)

Debtors.

REGAL WARE, INC.,

Appellant,

v.

Civil Action No. 06-588 (JJF)

GLOBAL HOME PRODUCTS LLC, et al.,

Appellees.

CERTIFICATE OF SERVICE

I, Bruce Grohsgal, hereby certify that on the 3rd day of November, 2006, I caused a copy of the following document(s) to be served on the individuals on the attached service list(s) in the manner indicated:

> Debtors' Opposition to Motion to Extend Time for Appellant to File Opening **Brief**

> > Bruce Grohsgal (Bar No. 3583)

¹ The Debtors are the following entities: Global Home Products LLC; GHP Holding Company LLC; GHP Operating Company LLC; Anchor Hocking Acquisition Inc.; Anchor Hocking Inc.; AH Acquisition Puerto Rico, Inc.; Anchor Hocking Consumer Glass Corporation; Anchor Hocking CG Operating Company LLC; Anchor Hocking Operating Company LLC; Burnes Acquisition Inc.; Intercraft Company; Burnes Puerto Rico, Inc.; Picture LLC; Burnes Operating Company LLC; Mirro Acquisition Inc.; Mirro Puerto Rico, Inc.; Mirro Operating Company LLC.

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